

STATE OF MINNESOTA

FAMILY COURT MATTER

Instructions for: DISSOLUTION OF MARRIAGE WITH CHILDREN

You may file your divorce in the County where you live or the county where your spouse lives. These instructions contain general information. Filing fees, policies and procedures may vary by County.

If you cannot afford to pay the filing fee or other costs, ask the Court Administrator/Deputy for an “IFP” application to waive fees. A Judge will decide if you have to pay, based on your application.

Read These Important Notices

❑ Can I handle my divorce myself?

The court does not require you to have a lawyer. You may represent yourself, which is called “pro se.” The forms available from the court are designed for going “pro se”, but court personnel cannot assist you in filling out the forms. The Court expects every person who appears in Court without an attorney to know and to follow the law. If you act as your own attorney, you must do what an attorney would do.

The danger in going “pro se” is that you will not recognize legal issues or problems in your case, or you may delay your divorce by failing to follow required procedures. You may get a divorce and learn later that you made serious mistakes that cost you money or create other problems. Changing a divorce order is difficult, and for some issues, like division of property, it is nearly impossible to change a divorce order.

The Judges of Family Court recommend talking to a lawyer even if you plan to go “pro se.” A lawyer can help you with all or just part of the process. For example, you may decide to ask a lawyer to help you decide if you should ask for spousal maintenance, or to help with what to say to support a request for a deviation in the standard amount of child support.

Here are some areas where people run into problems and need legal advice. If you answer YES to any of the questions below, you are strongly advised to talk to an attorney before signing any divorce forms.

1. Does your spouse have an attorney?
2. Do you or your spouse have pension, retirement or profit sharing plans?
3. Do you or your spouse own a home or other real estate together or separately?
4. Do you or your spouse own a business?
5. Do you or your spouse have a large amount of assets (money, property)?
6. Did you sign an antenuptial contract?
7. Do you and your spouse have children together or is the wife pregnant?
8. Since your marriage, has the wife given birth to a child fathered by someone other than the husband?
9. Have you or your spouse filed for bankruptcy or plan to in the near future?
10. Are you or your spouse involved in a personal injury lawsuit?
11. Are you worried about paying debts?
12. Are you claiming you have non-marital property?
13. Do you want spousal maintenance (formerly called “alimony”) or is your spouse asking for spousal maintenance?
14. Do you have questions about how to continue medical insurance?
15. Are you or your spouse a member of the armed services?

❑ Can I file for divorce in Minnesota?

1. The law states that before you can begin a divorce in Minnesota, you or your spouse must have lived in Minnesota for the last six months, OR you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse have lived in Minnesota for the last six months, STOP – you cannot get a divorce in

Minnesota yet. You must wait until one of you has lived in Minnesota for at least six months. File in the County where either you or your spouse live now.

2. If you or your spouse has already started a divorce, legal separation or annulment action in Minnesota or in any other state, you cannot start this divorce. You may either complete the other action, or you may have the other action dismissed and then start this divorce action.

□ **What Forms Do I Need?**

You should use this packet of forms only if you and the other party have at least one child together or if the wife has a child who was born during the marriage and husband or wife is claiming that husband is not the father of that child. A “child” means someone 17 years old or younger. “Child” also means someone 18 or 19 years old, if the child is still in high school. If no children were born of, or adopted into this marriage, or if your children are now adults you should use the forms packet entitled *Petition for Dissolution of Marriage without Children*.

□ **Do You Need a Temporary Order?**

IMPORTANT: Your divorce will not be final for several weeks or months. Between now and when your divorce is final, you may need to ask the court to order your spouse to pay you child support or spousal maintenance, or you may need an order regarding custody, parenting time, possession of the homestead, or other matters. If you need help from the court at any time before the divorce is final, you must file a Motion for Temporary Relief. Ask Court Administration for the packet called *Temporary Relief Pending Final Hearing With Children*. The forms are also available at the court’s website at www.courts.state.mn.us

□ **Do the Forms Have to be Typewritten?**

Typewritten forms are preferred because they are easier to read. You may print your answers if your writing is clear and neat. Use dark ink. If you need more space to answer a question, write “See attached Exhibit A” and attach an additional full sheet of paper labeled “Exhibit A”. If a second attachment is needed, label it “Exhibit B”.

□ **As you fill out the forms, you MUST follow all of the attached instructions.**

INSTRUCTIONS

Step 1 Fill Out the *Summons* Form

A *Summons* tells your spouse that you have filed a lawsuit against him or her asking for a divorce, and also tells your spouse that if he or she does not file a written *Answer* to your lawsuit, the Court may give you everything you ask for in your lawsuit.

HOW TO FILL IN THE *SUMMONS*:

- On the line marked “Name of Petitioner”, write your full name. From now on you will be called Petitioner.
- On the line marked “Name of Respondent”, write your spouse’s full name. From now on your spouse will be called Respondent.
- Check the appropriate box “without real estate” or “with real estate” at the top right section of the *Summons*. Check “with real estate” if you or your spouse together or separately own real estate, land or buildings in Minnesota or elsewhere.
- Check the appropriate box at question #3. If there is no real estate, check the box that says, “This proceeding does not involve real property.” If you and/or your spouse own real estate select the first box and fill in the street address, county, and state of all real property (such as a house or cabin) owned either by you or your spouse. You must also give the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed, Contract for Deed or Certificate of Title at the office of the County Recorder or Registrar of Titles in the county where the property is located.

WARNING: Be sure to copy the legal description **exactly** as it is on the Deed, Contract for Deed or Certificate of Title. If there is more than one parcel of real estate, you must provide the address and legal description for each parcel. You may add the language “See attached Exhibit A” following the legal description for the first parcel of land. On a separate full sheet of paper, write the information for the other parcels of land. Label the separate sheet of paper “Exhibit A” and staple it to the completed *Summons*.

- Fill in your address and phone number at the bottom of the *Summons*.

Caution: Make sure you list all real estate. To avoid title problems in the future, list all real estate owned by the parties together or separately in the summons and petition and the divorce decree. Any deeds between the parties must be signed and dated after the divorce is finalized. Until the divorce is finalized **and** the divorce Decree awards the property to just one party, both

husband and wife have an interest in all real estate owned by either husband or wife. A deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the other spouse.

Step 2

Fill Out the *Petition for Dissolution of Marriage* Form

YOU MUST ANSWER EVERY QUESTION
**Write "NA" on the blanks that do not apply or
write "Unknown" if you are unable to obtain the information.**

The *Petition* is divided into two parts. The first part gives the Court information about you, your spouse, your children, your finances, and your property. The second part tells the Court and your spouse what you are asking for from the Court.

HOW TO FILL OUT THE *PETITION FOR DISSOLUTION OF MARRIAGE*

- Fill in the name of Petitioner (you) and Respondent (your spouse)
- Answer questions 1-41 completely.
- The following instructions are numbered the same as on the *Petition* form.

INSTRUCTIONS FOR ANSWERING QUESTIONS 1-41. NOTE: The instructions are numbered the same as in the *Petition*. For example, for help in answering Question #3 on the *Petition*, read instruction #3.

1. Throughout this case, you will always be known as the Petitioner. Provide the address where you live, an address where you agree to receive papers about this case, and your date of birth. List all former or other name(s), such as a maiden name, or other married name.
2. Throughout this case your spouse (husband or wife) will always be known as the Respondent. Provide the address where the Respondent lives. If you do not have a current address, check the box next to "Respondent's address is unknown to Petitioner." Enter the Respondent's date of birth and all former or other name(s), such as a maiden name, or other married name.
3. Provide information about the date and location of your marriage.
4. Check YES if you have lived in Minnesota for the last six months. Otherwise, check NO. Check YES if your spouse has lived in Minnesota for the last six months. Otherwise, check NO.

STOP: The law states that before you can begin a divorce in Minnesota, either: (1) you or your spouse (husband or wife) must have lived in Minnesota for the last six months; or

(2) you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. **If neither you nor your spouse have lived in Minnesota for the last six months, you cannot file for a divorce yet. You must wait until one of you has lived in Minnesota for at least six months. If one of you has lived in Minnesota for the last six months, then go on to answer the rest of the questions.**

5. Answer the questions about the military status of both you and the Respondent. If either husband or wife is a member of the armed forces there are special procedures under the Soldiers and Sailors Civil Relief Act. Contact an attorney.
6. In Minnesota, a marriage can be dissolved even if only one of the parties states that the marriage relationship is over. By filling out this Petition you are stating that your marriage is over and cannot be saved.
7. Check YES if you are still living together; check NO if you are not. If NO, print the date you physically separated. If YES, describe why you are living together at this time.
8. Check YES if you or your spouse has already started another dissolution, legal separation or annulment proceeding in Minnesota or any other state.

WARNING: If you or your spouse have already started a divorce or legal separation or annulment case in Minnesota or in any other state and it has not been dismissed, you CANNOT start this divorce. You could either complete the other action, or you could have the other action dismissed and then start this divorce.

Check NO if there is no other action.

9. Check YES if there is an existing *Order for Protection* or an existing *Harassment Restraining Order* against the Petitioner or Respondent; complete this question and **staple a copy of the order to the completed *Petition***. Check NO if there is no Order.
10. Check YES if there is an existing Juvenile Court case and fill in all information. Check NO if there is no existing case.
11.
 - (a) List each child **under the age of 18** you and your spouse have together, including children born of you and your spouse before or during the marriage, and children adopted into your marriage. Also include a child age 18 or 19, if the child is still in high school. Check who the child(ren) currently live(s) with.
 - (b) Answer whether all the children listed in (a) have lived in Minnesota for the past six months.
12. List any the adult dependent children who are unable to live on their own because of a physical or mental condition.
13. Answer the questions about pregnancy.

14. Check YES only if the HUSBAND has any child(ren) **under the age of 18** that were born **prior** to the marriage from a different marriage or relationship. List all minor children that were born prior to the marriage.
15. (a) Check YES only if the WIFE has any child(ren) **under the age of 18** that were born **prior** to the marriage from a different marriage or relationship. List all minor children that were born prior to the marriage.
- (b) Check whether the Wife has given birth during the marriage to a child (or children) who is not a child of the Husband (including children who were born while the parties were separated). If **YES**, answer (i), (ii), (iii) and (iv).
- (i) List the name(s) and date of birth of the child(ren).
- (ii) Check whether there is a Court Order naming someone other than the Husband as the father of the child. If YES, you must attach a copy of the Order to the completed Petition.
- (iii) Check whether the Husband has signed Minnesota Recognition of Parentage Non-Paternity Statement and the Wife and Biological Father have signed Minnesota Recognition of Parentage. If YES, a copy of both the Non-Paternity Statement and the Recognition of Parentage must be attached. You must attach the Father's "yellow" copy, or the Mother's "green" copy, or a **certified** copy of the Recognition of Parentage **and** the Husband's "yellow" copy, or the Mother's "green" copy, or a **certified** copy of the Non-Paternity Statement. **Certified Copies** of the Recognition of Parentage and Non-Paternity Statement can be obtained by mail from:
- Minnesota Department of Health
Vital Statistics
717 Delaware St. SE
Minneapolis, MN 55414
612-676-5120
- (iv) Check whether the Husband has signed the "Husband's Non-Paternity Statement" for any of the children listed in (i). If YES, attach a copy. If NO, describe why not.

QUESTIONS 16 and 17 tell the Court who you think should have legal custody and physical custody of the child(ren) of your marriage under the age of 18. The Court will decide who should have custody based on what is best for the child(ren).

- **Legal Custody** identifies which parent(s) have the right to make decisions regarding the upbringing of the child(ren), including education, health care, and religious training. Legal Custody can either be sole or joint. **Sole Legal Custody** means that only one parent has a right to make decisions regarding the upbringing of the child(ren), and **Joint Legal Custody** means both parents share in the decision-making.
- **Physical Custody** identifies which person(s) will handle the routine daily care and control of the child(ren). Generally, the child lives with the parent who has physical

custody. Physical custody can either be sole or joint. If Sole Physical Custody is awarded, the non-custodial parent will have parenting time (visitation) rights. Joint Physical Custody means that the child(ren) lives with both parents based upon a schedule that best meets the needs of the child and parents, and that the parents have joint responsibility and control in the daily care of the child(ren).

16. If you want to have **legal** custody of the child(ren) by yourself, check “solely to Petitioner.” If you want your spouse to have legal custody of the child(ren), check “solely to Respondent.” If you want both you and your spouse to share legal custody, check “jointly to both parties.”
17. If you want to have **physical** custody of the child(ren) by yourself, check “solely to Petitioner.” If you want your spouse to have physical custody of the child(ren), check “solely to Respondent.” If you want both you and your spouse to share physical custody, check “jointly to both parties.”
18. If you answered question #17 by checking “jointly to both parties” then skip #18. If you are asking the Court to give you or your spouse sole physical custody, you must answer #18. The non-custodial parent will be given parenting time rights. If you are asking for sole physical custody to you, and if you think your child(ren) would not be safe alone with your spouse, ask the Court to make parenting time “supervised.” Then answer (i) and (ii). The Court may order parenting time to take place at a visitation center, or the Court may order a family member or someone from social services to supervise the parenting time. If you check “unsupervised” your spouse can visit the child(ren) without anyone else watching. If checked “reserved”, answer part (iii) describing why and then skip to question 19.

If you did not check “reserved”, then provide a proposed schedule in section 18(b). Read the pamphlet “A Parental Guide to Making Child-Focused Parenting Time Decisions.” Child development experts wrote this pamphlet to help parents and Judges understand the needs of children and how those needs change as a child gets older. In answering question #25 you should be very specific. For example: “*Weekends – every other weekend from Friday at 5:00 p.m. to Sunday at 5:00 p.m.*” “*Weeknights – one weeknight per week from after school to 7:00 p.m.*” Include in your schedule such matters as who should provide transportation, and where exchanges should take place. Holidays may include, but are not limited to, the following: New Years Day, Easter, Memorial Day weekend, Fourth of July, Labor Day weekend, Thanksgiving Day, and Christmas. Some parents alternate holidays each year so that, for example, on Memorial Day weekend the child(ren) would be with the mother in odd-numbered years and with the father in even-numbered years. The next holiday would be Fourth of July and the child(ren) would be with the father in odd-numbered years and with the mother in even-numbered years. Other parents keep the same holidays each year so that, for example, the child(ren) spends every Christmas Eve with the mother and every Christmas Day with the father. Under “Other” you may want to include how you would like to handle Mother’s Day, Father’s Day, and any other special days.

19. “Public assistance” means MFIP, General Assistance, medical assistance, or sliding fee daycare. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires you, as the petitioner, to notify the public authority paying assistance that you are filing a divorce action. Use the form called “Notice to County Support and Collection” to notify the county of your divorce action.
20. “School” includes college, vo-tech, and night classes. Check YES or NO. If YES, write in the name of the school.
21. Answer whether the Petitioner or Respondent or anyone in either household, including a child, received Supplemental Security Income (SSI) or Social Security (SSDI or RSDI) due to disability, retirement, or death of a parent or spouse.
22. This question is about your employment status. Provide the requested information about your employer. If you are self-employed, list the business name and address.
23. This question asks for your monthly income. If you are paid weekly, multiply your weekly income by 4.33 to get monthly income. If you are paid every two weeks, multiply by 2.17 to get monthly income. If you are paid twice per month, multiply by 2.
24. Provide the requested information about living expenses for the family.
25. Answer whether you and your spouse have a child with special needs and extraordinary medical expenses. If YES, provide the name of the child, describe the needs, and answer (b) and (c).
26. This question is about your spouse’s employment status. Provide the requested information about your spouse’s employer.
27. This question asks about your spouse’s monthly income. Check “Petitioner has no information about Respondent’s income” if you do not know how much money your spouse makes. If you have detailed information about your spouse’s income, complete the questions.
28. Complete the questions about child care costs related to work or school.
29. Complete the questions about medical and dental insurance.

NOTE: If you, your spouse, or your child(ren) are covered by medical or dental insurance through your job or your spouse’s job, that coverage can be continued even after the divorce. If you want the insurance coverage to continue after the divorce, call the Employment Benefits Office of you or your spouse’s employer and ask for “COBRA” coverage.

30. This question is about spousal maintenance. Spousal maintenance is money paid by one spouse to help support the other spouse. Spousal used to be called alimony. If you check

YES for either (a) or (b), you need to provide details about the length of marriage, education of the spouse who would receive maintenance, gross monthly income, and reasons why the spouse would not be able to maintain the standard of living established during the marriage.

31. List all the vehicles owned by husband and wife together or separately.

WARNING: Questions 32-33 ask about marital and non-marital property. Dividing marital property and nonmarital property is complicated. You should talk to an attorney.

- **Marital Property** means almost anything that you or your spouse own that you or your spouse received during the marriage, even during the times that you and your spouse were separated. This includes real estate, boats, cabins, household goods, furniture, jewelry, and other things.
 - **Nonmarital Property** means: (1) anything that you or your spouse owned before the marriage; (2) anything that you or your spouse received as a gift, bequest, devise, or inheritance; (3) anything that you or your spouse got in trade or in exchange for your nonmarital property; (4) anything that is an increase in the value of nonmarital property; (5) anything you or your spouse received after the valuation date set by the Court; or (6) anything included by a valid antenuptial contract (STOP: If you have an antenuptial contract, you should stop here and talk to an attorney.)
32. Check YES or NO whether you and your spouse have divided the **marital property** to your mutual satisfaction, including household goods, furniture, furnishings, and other belongings. If you have **NOT** divided the marital property, list the items that you want.
33. (a) Check YES or NO whether you claim **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property you own.
- (b) Check YES or NO whether your spouse claims **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property your spouse owns.
34. Check YES or NO whether you or your spouse has money in banks, savings, cash or investments. If YES, fill in all columns in the box.
35. Check YES or NO whether you and/or your spouse own part or all of a business. If YES, fill in the name, address and value of the business.
36. Check YES or NO if either you or the Respondent own a manufactured home. If YES, complete the detail questions.

WARNING: Question 37 asks you to list all **real property**. Real property is land and the buildings on the land. You must list all real property owned by you and your spouse together, separately, or with others. Failure to list all property **will** create serious problems and expense in the future. Until the divorce is finalized and the Decree awards the property to just one party, both husband and wife have an interest in all real estate owned by either husband or wife. A deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse. Any deeds between the parties must be signed and dated after the divorce is finalized. **Dividing real property is complicated. You should talk to an attorney if you and/or your spouse own any real property.**

37. (a) Check YES or NO if you and your spouse own any real property together.
(b) Check YES or NO if you own real property solely in your name or with someone other than Respondent.
(c) Check YES or NO if Respondent owns real property solely in his/her name or with someone other than you.
(d) Answer how many properties are owned by you and your spouse in total.
If YES to (a), (b) or (c), complete the Real Property Information questions for each piece of property. (1) List the full names of all owners of the property. (2) Fill in the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the real property is located. **WARNING:** Be sure to copy the legal description **exactly** as is on the Deed or Contract for Deed. (3) Fill in the street address, city, county, and state where your property is located. (4) State the date the property was purchased and its purchase price. (5) State the amount of any existing loans or mortgages. (6) State the current market value of the property and describe how you came up with that value. (7) Check YES if this property is the homestead.

WARNING: Question 38 asks about pension, profit sharing, and retirement plans. **Dividing pension, profit sharing, and retirement plans is complicated. You or your spouse could face large losses if the divorce decree does not divide the pension or retirement plan according to the laws that apply. You should talk to an attorney if you or your spouse have any of these types of plan.**

38. (a) Check YES or NO if you have an IRA, 401(k), 403(b) or other retirement plan. If YES, list the last four digits of the account number, the name of the bank, and the current account balance.
(b) Check YES or NO if your past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan for you. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date you began working at the job or joined the plan, the type of plan, and the present value of the plan.
(c) Check YES or NO if your spouse has an IRA, 401(k), 403(b) or other retirement plan. If YES, list the last four digits of the account number, the name of the bank, and the current account balance.

(d) Check YES or NO if your spouse's past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date your spouse began working at the job or joined the plan, the type of plan, and the present value of the plan.

39. Check YES or NO if you and/or your spouse have outstanding debts (owe money) either together or separately. If YES, list all of the debts you and your spouse now have, even if only one of you created the debt and even if only one of your names is on the credit card, loan or note. List all debts still owed from before you were married, from during the marriage but before separation, and after separation. The Judgment and Decree (divorce decree) will state who is responsible for paying each debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car loans, home loans and mortgages, and other bills and loans. List to whom the debt is owed (such as Sears); how the money was used (such as "clothing for the children"); whose name is on the account and when the debt was created (if you cannot get the exact date the debt was created, at least state if the debt is from before the marriage, or during the marriage and before separation, or after separation); the current balance due; and the monthly payment. Attach another sheet of paper if you need more space. You must disclose all debts.
40. You may change your name as part of the divorce, but you do not have to do so. You can change your name to a maiden name, or some other name. You cannot make your spouse change his or her name, and your spouse cannot make you change your name. If you want to change your name, check YES and answer (a) – (c). If you do not want to change your name, check NO.
- (b) Print your new name (*first, middle, and last*). **Do not use initials unless you want only an initial instead of a full name**
 - (c) You cannot change your name if your reason for changing your name is to defraud or mislead anyone. Mark True or False to the statement "Petitioner has no intent to defraud or mislead anyone by changing his/her name".
 - (d) If you have a felony conviction, you cannot change your name unless you notify the prosecuting authority that you intend to change your name. The prosecuting authority has 30 days after being served with your notice to object to the name change. If you have been convicted of a felony anywhere in the United States, answer (c) YES. Ask Court Administration to give you the *Felon Name Change Instructions*.
- Warning:** If you do not notify the prosecuting authority of the request for name change and you use your new name, you may be guilty of a gross misdemeanor.
41. List any other facts you would like the Court to know.

INSTRUCTIONS FOR ANSWERING QUESTIONS 1-24, WHICH TELL THE COURT AND YOUR SPOUSE WHAT YOU WANT THE COURT TO ORDER

1. This tells the Court that you want your marriage dissolved. You do not need to write anything here.

2. Check who you want to have **legal** custody of the child(ren) of the marriage, the same as you did in question 16 of the Petition.
3. Check who you want to have **physical** custody of the child(ren) of the marriage, the same as you did in question 17 of the Petition.
4. Check off whether Respondent's parenting time with the child(ren) should be supervised or unsupervised, the same as you did in question 18 of the Petition. Then fill in the parenting time schedule that **best meets the needs of the child(ren)**, the same as you did in question 18 of the Petition.
5. The court will consider the issue of child support. You do not need to fill in anything here. However, at some point in the proceedings, you will need to be specific about the amount of child support that is needed. See pages 24-26 of these instructions for more information on how to calculate child support based on the guidelines.
6. Check off whether you (Petitioner) want to pay for the child(ren)'s medical and/or dental insurance through employment or private insurance or whether you want your spouse (Respondent) to pay for the child(ren)'s medical and/or dental insurance through employment or private insurance.
7. Usually medical and dental insurance does not pay every bill. For example, co-payments and medicine might not be covered. These costs are called unreimbursed costs. You can check the box for having the judge order each party to pay a fair share or you can reserve the issue of unreimbursed medical and dental costs until later.
8. You must check a box to state that you want to pay for health and dental insurance for you and your spouse, after the divorce is finalized. If you want you and your spouse to each pay your own health and dental insurance costs, check box (a). Box (c) is for COBRA coverage. Check with the employer of the person who has coverage for information on how to get COBRA coverage. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.
9. Minnesota law requires the parents to share work-related and school-related childcare costs. You can check the box to have the judge determine the share of monthly child care expenses according to Minnesota law or you can check the box to reserve the issue.
10. If you want spousal maintenance to be denied, check box 10(a). If you want the Court to decide the issue of maintenance at a later date, then check box 10(b). If spousal maintenance should be ordered to help either you or your spouse pay for necessities, check the appropriate boxes in 10(c).
11. In question 31 above you listed all of the vehicles owned by you and your spouse. Write down which vehicles you want the Court to give to you and which vehicles you want your spouse to have.

WARNING: Dividing marital property and non-marital property is complicated. You should talk to an attorney.

12. Check YES or NO whether you and your spouse have already divided your marital property to your mutual satisfaction. If NO, list the marital property you want to receive and the marital property you want your spouse to receive.
13. Check YES or NO whether you and your spouse have already divided your non-marital property to your mutual satisfaction. If NO, list the non-marital property you want to receive and the non-marital property you want your spouse to receive.
14. State how you want the Court to divide the cash and investments listed at #34 above.
15. If you and/or your spouse own a business, state how you want the Court to divide the business. Be very specific.
16. If you and/or your spouse own a manufactured home, provide the address of the manufactured home and check off who should get it.
17. If you or your spouse own other real property either separately or together, check off whether you (Petitioner) or your spouse (Respondent) should be awarded that real property, and then list the street address, city, county and state where the homestead is located, and then write the **exact** legal description. You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the property is located. Write in the name of the mortgage company and the amount of the current mortgage balance. If there is additional real property, list it in paragraph 18.
18. If there is additional real property, provide the address and legal description and state how that property should be awarded.
19. Describe how your pension, profit sharing, retirement, IRA or 401 plan should be divided, then do the same with any plan in your spouse's name. Get competent legal and tax advice before making any decisions.
20. If you and your spouse have any individual debts and you want the Court to order each of you to pay your own debts, check box (a). In question 39 above you listed all of the debts you and your spouse have. Include all debts listed from question 39. If you want the court to order that each party pay their own debts, check box (b).
21. If you want to change your name, print **exactly** how your new name should be listed (first, middle, and last). **Do not use initials unless you want only an initial instead of a full name.**
22. List anything else you would like the court to decide.

23. You do not need to write anything for question 23.
24. READ and SIGN the **Verification and Acknowledgments** on the next page.
- **DO NOT date and sign your *Petition* until you are before a Notary Public or Court Deputy.**
 - **To get divorced you must pay a court filing fee.** If you cannot afford this fee, a Judge may waive it under certain circumstances. Ask court administration for an In Forma Pauperis application. Fill out this application and sign it in front of a Notary Public or Court Administrator/Deputy. Take the In Forma Pauperis application to the Court Administrator's office to have a Judge review your application and decide if you must pay the filing fee. The Court Administrator cannot accept your legal papers without either the filing fee or an *Order* signed by a Judge waiving the fee.

Step 3
**Sign the *Summons* and *Petition* in Front of a Notary or Court
Administrator/Deputy**

- Sign the *Petition* in the presence of a Notary Public or Court Administrator/Deputy. Notaries may also be found at banks. Sign the *Petition* with the Notary Public or Court Deputy watching you. Bring picture identification to show to them.
- On the signature page of the *Petition* where it reads "State of Minnesota/County of _____," fill in the name of the county where you signed the *Petition*.
- Sign the *Summons*. This does not have to be done in the presence of a Notary or Court Administrator/Deputy.

Step 4
Make Copies of Forms

Make two copies of the *Summons* and two copies of the *Petition*. You will arrange to have one set of copies served on your spouse (Step 5) and you will keep one set of copies for your records. Later, you will file the original *Summons and Petition* with the Court (Step 8.)

Step 5
Serve the Other Party

Your spouse must receive a copy of your *Summons and Petition for Dissolution of Marriage*. Delivering the copy to your spouse is called "service of process." Your marriage dissolution

action is started the moment your spouse is served with the *Summons and Petition for Dissolution of Marriage*.

These instructions describe three ways to do “service of process”: (1) Personal Service, (2) Admission of Service, and (3) Alternate Service. Read about each of the three ways to decide which way is appropriate in your case.

1. Service of Process Method #1: Personal Service

This is the most common method for serving divorce papers. With Personal Service, a third person (the “server”) who is at least 18 years old hands a copy of the Summons and Petition directly to your spouse. Papers cannot be served on a Sunday or a legal holiday. After serving the papers, the server must fill out the *Affidavit of Personal Service*, and sign it in front of a notary public. The *Affidavit of Service* is your proof that the papers were delivered, and tells what date they were delivered. See the following “Instructions on how to fill out the *Affidavit of Service*”.

Important Points for Personal Service

- A copy of the Summons and Petition is handed directly to your spouse (not mailed, not left with a roommate.)
- **You** cannot hand the papers to your spouse.
- Papers can be handed to your spouse at home, at work, or anyplace else.
- The server must be at least 18 years old.
- You can ask the Sheriff or a private process server to serve the papers, or ask a friend to serve the papers. Private servers and the sheriff charge a fee to serve papers. If you have an *In Forma Pauperis* (IFP) order that covers service of process fees, the sheriff will serve the papers within the county at no cost to you. You must deliver to the sheriff the Summons and Petition and the IFP order. No matter who serves the papers, it is your responsibility to get the completed *Affidavit of Personal Service* from the server to file in your court file. If your spouse lives outside of your County, you must contact the sheriff in that county and ask if they will honor the IFP order from another county.
- Papers cannot be served on Sunday or a legal holiday. Papers delivered on a Sunday or legal holiday have not been legally served, and the case will be dismissed.

- **Personal Service in another state or country:**

Your spouse can be served by Personal Service anywhere in the United States, as long as the papers are handed directly to your spouse. If your spouse lives in another country, you must consult a lawyer about how to properly serve your spouse. Service in a foreign country must be done according to Minnesota Rules of Civil Procedure Rule 4.04 (c), and Minnesota Statutes. The rules for serving someone in a foreign country can be very complex and court employees cannot tell you how to serve your spouse in another country.

How to Fill out the *Affidavit of Personal Service*:

- a. Fill out the top part of the form the same way you did on your *Summons*

- b. After “County of,” fill in the name of the county where the *Affidavit of Personal Service* was signed by the person who served the papers.
- c. On the blank line after “I,” fill in the name of the person who hand-delivered the forms to your spouse.
- d. Fill in the date that the documents were hand-delivered to your spouse.
- e. Write in the title of each document handed to your spouse. (*Summons* and *Petition for Dissolution of Marriage*).
- f. Fill in the name of your spouse and the location (address) where your spouse was given the *Summons* and *Petition*.
 - The person who delivered the forms must not sign the *Affidavit of Personal Service* until (s)he is in the presence of a Notary Public or Court Administrator/Deputy. Make sure the person brings picture identification to show to the Notary Public or Court Administrator/Deputy.
- g. After it has been signed, make one copy of the completed *Affidavit of Personal Service* for your records.

2. Service of Process Method #2: Admission of Service

The second method of service can be used only if your spouse is willing to sign a form called *Admission of Service* and have his/her signature notarized. If your spouse signs this form, your spouse is admitting that (s)he received a copy of your *Summons and Petition*. Your spouse can sign the *Admission of Service* even if (s)he disagrees with your *Petition*. Your spouse still has the option of contesting the divorce even if (s)he signs the *Admission*.

To use this method, fill out the heading of the *Admission of Service* form, but DO NOT sign it. Your spouse must sign it and have it notarized. Next, deliver the (1) *Admission of Service*, (2) a copy of the *Summons*, and (3) a copy of the *Petition for Dissolution of Marriage* to your spouse. Because your spouse will be signing a form admitting (s)he received the papers, you are allowed to give the papers to your spouse yourself. Or you can mail the papers, leaving the papers in a place where your spouse has agreed to pick them up, or by have someone else deliver the papers to your spouse. Next, your spouse must read and sign the *Admission of Service* in the presence of a Notary or Court Administrator/Deputy and give it back to you. **Warning:** If your spouse does not sign and return the *Admission of Service* to you, the papers are not served, and you must then use *Personal Service* or *Alternate Service*. Try the *Admission of Service* ONLY if you are sure that your spouse will cooperate with you by signing and returning the *Admission of Service*. Also, if you think your spouse might become angry or try to hurt you, DO NOT deliver the papers to your spouse yourself.

3. Service of Process Method #3: Alternate Service

Use this method of service only if Personal Service and Admission of Service have not or will not work because you cannot find your spouse, or your spouse is uncooperative. If you have tried to serve your spouse by Personal Service but you cannot find your spouse, or your spouse is hiding to avoid service, you can ask the Court to allow you to serve the papers some other way. Before you can use another method of service, you must prepare an *Application for Service by Alternate Means* and get an order signed by a judge. The Judge's Order will tell you what you have to do to serve the papers. Frequently the order will include publishing in a newspaper, and you must pay the costs unless you have a fee waiver that covers publication costs.

The *Application for Service by Alternate Means* must contain the following information:

- The last known address of the Respondent;
- The Petitioner's most recent contacts with the Respondent;
- The last known location of the Respondent's employment;
- The names and locations of the Respondent's parents, siblings, children and other close relatives;
- The names and locations of other persons who are likely to know the Respondent's whereabouts.

Forms for *Application for Service by Alternate Means* are available from Court Administration.

Step 6

Form 11.1: Confidential Information Form and Public Assistance Notice

Fill Out Form 11.1: Confidential Information Form The law requires that you provide social security numbers in a divorce. Include names and social security numbers for you, your spouse, and any children on Form 11.1. This information will be kept confidential. You should also know that if at a later point in the divorce proceeding you need to file financial records (like bank statements, credit card statements or income tax returns) you should fill out Form 11.2 and use that as a cover sheet for the financial records. Using these forms ensures that your social security number and financial records will be kept in a confidential part of the court file.

Do you or your spouse receive Public Assistance from the State? If you or your spouse have applied for or are receiving assistance from the State of Minnesota for your family, such as MFIP, Medical Assistance, MinnesotaCare, Foster Care or Child Care Assistance, you must notify the county of your divorce action. Fill out the form called *Notice to County Support & Collections*. Make a copy of the Notice. Hand-deliver or mail the copy of the *Notice to County Support & Collections* to the County Support and Collection Services office for the County paying the assistance. You may deliver or mail the copy yourself, or ask someone else to do it for you. The person who delivered or mailed the copy must fill out the *Affidavit of Mailing or Delivery* stating when the Notice was served on County Support and Collections Services. The Affidavit must be signed in front of a Notary Public/Deputy Court Administrator. You will file the original *Notice to County Support and Collections and Affidavit of Service* with the Court when you file the Summons and Petition.

Step 7

Fill Out the Certificate of Representation and Parties Form

Fill out the *Certificate of Representation and Parties* form. The purpose of this form is to tell the Court where to send notices. If either party has an attorney, the notices will be sent to the attorney. If a party has no attorney, notices are sent directly to the party.

This form is written for parties without attorneys. The form informs the Court that the parties are both self-represented and gives the Court the parties' addresses and phone numbers. If you or your spouse has an attorney, cross out "self-represented" on the form and write in the name, address, phone number and attorney I.D number INSTEAD of the address of the party whom the attorney represents.

In filling out the form, DO NOT fill in the case number or date that the case was filed. The Court Administrator will fill in that information after you file the form with the Court.

WARNING: At this time you may not know if an attorney represents your spouse, or you may not know all the information requested about your spouse. If you do not know all or some of the information about your spouse, write "unknown." However, the law requires you, as the Petitioner, to provide to the court all **new** information about you and your spouse (addresses, phone numbers and whether an attorney represents you or your spouse) within seven (7) days of learning this new information. You must write to the Court Administrator and provide this information. All letters you write to the Court Administrator must include your name, your spouse's name, and the case number.

Step 8

File the Forms with the Court

File these documents:

- Summons
- Petition for Dissolution of Marriage
- Affidavit of Personal Service OR Admission of Service
- Form 11.1 Confidential Information Form
- Certificate of Representation and Parties
- Notice to County Support and Collections (required only if you or your spouse are receiving public assistance from the State of Minnesota. See Step 6)

File the original documents. Before you file the documents, make a copy for your records. You can file the forms with the Court in person or by mail. There is a court filing fee. Make checks payable to “Court Administrator”. To file in person take the originals to the Court Administrator’s office. To file the forms by mail, mail the original documents to the Court Administrator’s office. After you file the documents, the Court will mail a notice to you and your spouse informing you both of the case number and date that the *Summons and Petition* were filed.

IF YOU CANNOT AFFORD THE FILING FEE

If your income is below the Federal Poverty Line, a Judge may waive the filing fee. Ask the Court Deputy for an In Forma Pauperis application. Fill out this application and sign it in front of a Notary Public or Court Administrator/Deputy. If you are receiving public assistance, you should attach to the application a copy of a document that shows you receive public assistance. The Court Administrator/Deputy will have a Judge review this application and the Judge will decide if you must pay the filing fee. The Court Administrator CANNOT accept your legal papers without payment of the filing fee or an order from a Judge waiving the fee.

Step 9

Parenting Education Session and Child Education Session

If there are children under the age of 18, parenting classes may be required for you and your spouse before you can get divorced. If you and your spouse have children between the ages of 6 and 17, the children may be required to attend classes before you can get divorced. As the Petitioner, you must notify your spouse and/or your spouse’s attorney about the obligation to

attend the parent programs and/or children's program. Check with Court Administration for specific information about education requirements.

Step 10

Temporary Relief

If you and your spouse need a temporary order to address temporary custody, parenting time, child support, spousal maintenance or any other matter in the divorce, go to Court Administration and ask for the packet called "Temporary Relief Pending Final Hearing with Children." If a Judge signs a temporary order, that order is in effect until the Judge signs the final order divorcing you and your spouse

Getting a Hearing Date for the Temporary Relief

Before you can get a hearing date to ask the Judge to give you temporary relief, you must file your Summons and Petition and Affidavit of Service with the Court. The court deputy will give you a hearing time and date for your Temporary Relief Motion with the Judge who is assigned to hear your case.

Step 11

Pro Se Informational Statement

The Pro Se Informational Statement is only needed if your case is contested. Your case is contested if your spouse serves you with an Answer in response to your Petition. If you receive a letter from the Court telling you to file a Pro Se Informational Statement follow the instructions in the letter and call the Court if you have questions. If you have settled the case with your spouse, or you have not received an Answer from your spouse, call the Court and ask if you still need to file the Pro Se Informational Statement.

Step 12

The Next Step is Determined by Your Spouse's Response to Your Petition for Dissolution of Marriage

Once you have filed the *Summons, Petition, and Affidavit of Service* with the Court, your divorce case will proceed in one of the following ways:

1. **You and your spouse agree on all issues.** If you and your spouse agree on everything, go to Step 13 now for instructions on filling out the *Marital Termination Agreement*.
2. **You receive an Answer from your spouse within 30 days of service of the Summons and Petition on your spouse.**
If your spouse served you with an *Answer and Counter-Petition*, it means that your spouse does not agree with everything you have asked for in your Petition and that your

spouse is asking for something different. The first part of your spouse's *Answer* will tell you the parts of your *Petition* with which your spouse partly agrees, totally agrees, or totally disagrees. Once you know the issues about which you and your spouse disagree, you and your spouse should attempt to reach an agreement regarding those issues. If you work out an agreement, go to Step 13 and fill out the *Marital Termination Agreement* form included in this packet.

If you and your spouse DO NOT reach an agreement on all issues, your case is contested and you should talk to a lawyer. Representing yourself in a contested case is difficult. The Court may require additional forms, such as the Prehearing Statement. This form is available from Court Administration.

3. **Your spouse sends you a letter or files a letter (other than an *Answer*) with the Court stating that he or she disagrees with your *Petition*.**

If your spouse disagrees with your petition your spouse is supposed to serve you with a written *Answer* within thirty (30) days of the date your spouse was served with the Summons and *Petition*. If your spouse does not serve you with an *Answer* within 30 days but your spouse sends you a written response such as a letter or memo, or files an informal response with the court, then you need to give your spouse one more notice* before the Court will grant the divorce.

* The notice is called *Notice of Intent to Proceed to Judgment*. The notice can be obtained from Court Administration.

4. **Your spouse does not respond with an *Answer* or any other writing.** Your spouse has 30 days to serve you with a formal *Answer and Counter Petition*, stating that he/she disagrees with your *Petition*. If your spouse does not serve you with an *Answer* **and at least 50 days** have passed since your spouse was served with the Summons and *Petition*, you can ask the Court for a "Default Judgment." You need to fill out the Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree (see Step 14), and Affidavit of Default, Affidavit of Non-Military Status, and Default Scheduling Request (see Step 15). 50 days after your spouse was served, you can file these forms with the court (see Step 16.) Read and follow the instructions at Steps 15 and 16. The information in this paragraph is an overview.

| |
|---|
| <p style="text-align: center;">Step 13</p> <p style="text-align: center;">You and Your Spouse Agree on All Issues</p> |
|---|

If you and your spouse agree on all issues, fill out the *Marital Termination Agreement* form in this packet.

Important Note: The *Marital Termination Agreement* must be signed and dated after the *Petition* is served on your spouse, or after your spouse signs an *Admission of Service*. Service of the

Summons and Petition on your spouse starts the divorce action. You and your spouse cannot settle the action until it has been started by service of the Summons and Petition. If the Marital Termination Agreement is signed before the Summons and Petition are served, the Judge will not sign the divorce decree.

The *Marital Termination Agreement* form tells the Court that you and your spouse have reached an agreement settling all of the issues involved in your divorce case. It also tells the Court the exact terms of the agreement.

FILL IN THE 'HEADING' OF THE FORM WITH YOUR NAME, YOUR SPOUSE'S NAME AND THE CASE NUMBER.

FILL IN THE INFORMATION ON PAGE 1 of the Marital Termination Agreement:

- At Paragraph B., check off whether you have or have not been represented by an attorney during your divorce proceeding and, if you have an attorney, fill in that person's name. At Paragraph C., check off whether **your spouse** has or has not been represented by an attorney during this divorce proceeding and, if your spouse has an attorney, fill in the attorney's name.
- At Paragraph D., write the date that your spouse was handed the *Summons and Petition for Dissolution of Marriage*, OR the date your spouse signed an *Admission of Service*. You can find this date on your copy of the *Affidavit of Personal Service or Admission of Service*.
- At Paragraph E., check the YES box ONLY if your spouse served you with a written *Answer and Counter-Petition*. If you received a written *Answer* from your spouse, then fill in the date that you received the *Answer and Counter-Petition*.

FILL IN ANSWERS TO QUESTIONS 1-41 STARTING ON PAGE 2 of the Agreement

Answer every question. If a question does not apply to your situation, write in "N/A." If the question is a "Yes" or "No" question, make sure you check either "Yes" or "No." On the Petition, you may have answered questions by writing "unknown." **You cannot use "unknown" on the *Marital Termination Agreement*.** Both parties are signing the Agreement, and one or the other party should know all the answers.

Questions 1-41 of the Marital Termination Agreement (MTA) are the same as questions 1-41 of the Petition. Refer to the instructions for the Petition for help completing the MTA.

If you and your spouse have reached some additional agreement regarding your marriage dissolution, state the agreement on the lines provided at Paragraph 41.

| |
|---|
| AGREEMENT: PARAGRAPH/QUESTIONS 1-24 (PAGE 31 OF MTA) |
|---|

NOTE: The following instructions are numbered the same as the paragraphs/questions on the form.

1. This means you and your spouse agree that your marriage should be dissolved. You do not need to write anything here.
2. Check off how you would like the Court to order legal custody of the child(ren) of your marriage, the same as you did in question 16 above.
3. Check off how you would like the Court to order physical custody of the child(ren) of your marriage, the same as you did in question 17 above.
4. Check off whether the parenting time with the child(ren) should be supervised or unsupervised, the same as you did in question 18 above. Then fill in the parenting time schedule that **best meets the needs of the child(ren)**, the same as you did in question 18 above.
5. You can either request an Order setting child support payments by completing (a) or you can reserve the issue of child support until later by checking (b).

For section (a), check whom you want to pay support to whom. Fill in the amount of child support per month. (Read ahead for instructions on how to figure out the amount of child support from the child support guidelines.)

Both parents must help support their child(ren). If the child(ren) live with your spouse, you must pay child support to your spouse. If the child(ren) live with you, your spouse must pay child support to you. Minnesota law requires an employer or other source of funds to withhold child support from the employee's paycheck and send it to the county where you are getting the divorce. The county will then send the child support to the parent who is supposed to receive it.

DETERMINE THE AMOUNT OF CHILD SUPPORT TO BE PAID BY FOLLOWING THESE STEPS:

Caution: Child Support is calculated from NET Income. The amount of child support can vary depending on the obligor's (person paying child support) tax filing status. The obligor may want to have child support calculated based on the tax filing status the obligor expects to have after the divorce. For example, obligor may be paying taxes now based on a filing status of Married, 3 exemptions. Obligor's tax filing status might change after the divorce to Single, 1 exemption (or something else.) You should get advice from a lawyer if you have any questions about how to calculate child support.

- a. If you want Respondent to pay you child support, go to question 33(d) of the Petition and find your spouse's NET income.

- b. If the child(ren) are to live with your spouse, go to question 32(d) of the Petition and find your NET income.
- c. Using the NET income amount and the chart below, determine the percentage of child support to be paid. The following are two examples of how to find the percentage:
- Example 1: Assume the person's net income is \$857 per month and there are three children of the marriage. In the left-hand column find the range in which \$857 is located (\$851-900) and in the top row find the number of children to be supported (3). The point at which the column and row meet is the percentage of child support to be paid (31%).
 - Example 2: Assume the person's net income is \$1,250 per month and there are two children of the marriage. In the left-hand column find the range in which \$1,250 is located (\$1001-5000) and in the top row find the number of children to be supported (2). The point at which the column and row meet is the percentage of child support to be paid (30%).

| Net Income Per Month | Number of children | | | | | | |
|-------------------------|---|-----|-----|-----|-----|-----|--------------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 or more |
| \$0-550 | To be determined based on the person's ability to provide support at this income level, or at a higher level if the person has the earning ability. | | | | | | |
| \$551-600 | 16% | 19% | 22% | 25% | 28% | 30% | 32% |
| \$601-650 | 17% | 21% | 24% | 27% | 29% | 32% | 34% |
| \$651-700 | 18% | 22% | 25% | 28% | 31% | 34% | 36% |
| \$701-750 | 19% | 23% | 27% | 30% | 33% | 36% | 38% |
| \$751-800 | 20% | 24% | 28% | 31% | 35% | 38% | 40% |
| \$801-850 | 21% | 25% | 29% | 33% | 36% | 40% | 42% |
| \$851-900 | 22% | 27% | 31% | 34% | 38% | 41% | 44% |
| \$901-950 | 23% | 28% | 32% | 36% | 40% | 43% | 46% |
| \$951-1000 | 24% | 29% | 34% | 38% | 41% | 45% | 48% |
| \$1001-5935 | 25% | 30% | 35% | 39% | 43% | 47% | 50% |

- d. Now calculate the dollar amount of support to be paid each month by multiplying the person's net income by the percentage indicated in the chart. For example, using the first example from above, multiply $\$857 \times .31 = \265.67 per month in child support. Using the second example from above, multiply $\$1,250 \times .30 = \375 per month in child support.

Fill in the dollar amount on the line for question 5. Note: This amount is the “guideline” amount of child support. You can ask to pay/receive more or less than the guideline amount. If you want to ask for an amount other than the guideline amount, read Minn. Stat. 518.551, subd. 5, (c) and (d) and explain in the petition why you want to deviate from the guideline amount, and how much you want child support to be. You can get a copy of the statute at your law library.

6. Check off whether you (Petitioner) will pay for the child(ren)’s medical insurance through employment or private insurance or whether your spouse (Respondent) will pay for the child(ren)’s medical insurance through employment or private insurance. If you would like the court to decide the issue of insurance at a later date, check box (d). Complete the same questions for dental insurance.
7. On the first line, fill in the portion of the unreimbursed medical and dental expenses that you will pay, and on the second line, fill in the amount of unreimbursed medical and dental expenses that your spouse will pay. For example, if both you and your spouse will each pay one-half of the unreimbursed expenses, fill in “50” on each line. If you would like the court to decide at a later date, you can check (b) reserving the issue.
8. You must check a box to state who will pay for health and dental insurance for you and your spouse, after the divorce is finalized. If you want you and your spouse to each pay your own health and dental insurance costs, check box (a). Box (c) is for COBRA coverage. Check with the employer of the person who has coverage for information on how to get COBRA coverage. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.
9. Fill in the amount of child care expenses that you will pay and the amount that your spouse will pay each month. If you want the judge to decide the issue later, you can check (b) reserving the issue.
10. Check box (a) if there will not be any spousal maintenance paid to either party. Check (b) if you want to reserve the issue for later. Check (c) and provide the requested information if you have an agreement for permanent spousal maintenance. Check (d) and provide the requested information if you have an agreement for temporary spousal maintenance.
11. List all of the vehicles and who will receive each vehicle. Attach another sheet of paper if you need more space than provided.
12. If you and your spouse have already divided the marital property to your mutual satisfaction, then check “As already divided by the parties” and do not list any property. If there are specific items to be divided, check “as follows,” and list the marital property you will receive and the marital property your spouse will receive.
13. If you and your spouse have already divided the non-marital property to your mutual satisfaction, the check “As already divided by the parties” and do not list any property. If

there are specific items to be divided, check “As follows,” and list the non-marital property you will receive and the non-marital property your spouse will receive.

14. List which assets at #34 above (cash and investments) you will receive and which your spouse will receive.
15. State how the business will be divided.
16. If you have a manufactured home, answer the questions about how it will be awarded.
17. Check off whether you (Petitioner) or your spouse (Respondent) will be awarded the homestead (if you and your spouse own one), and then list the street address, city, county, and state where the homestead is located, and then write the exact legal description.
18. If you and your spouse own other real property either separately or together, check off whether you (Petitioner) or your spouse (Respondent) will be awarded that real property, and then list the street address, city, county, and state where the homestead is located, and then write the exact legal description. Attach another sheet of paper if there is more than one parcel of real estate.
19. Describe exactly how your pension, profit sharing, retirement, I.R.A., or 401 plan will be divided. It can be awarded 100% to one person, or divided. If you are dividing a qualified benefit retirement plan, you will need another document called a QDRO. The QDRO is not available from the Court. Contact the employer benefits unit or an attorney for more information about QDROs.

Describe exactly how your spouse’s pension, profit sharing, retirement, I.R.A., or 401 plans will be divided.

20. If you and your spouse have any individual debts and you want the Court to order each of you to pay your own debts, check box “a.” In question 51 above you listed all of your debts you and your spouse have. Check box “b” and put down all the debts you will pay and then put down all the debts your spouse will pay.
21. If your name will be changed, print exactly how your new name will be listed (first, middle, and last). Do not use initials unless you want only an initial instead of a full name. If your spouse’s name will be changed, print exactly how your spouse’s new name will be listed (first, middle, and last). Do not use initials unless you want only an initial instead of a full name.
22. If there is a child born to wife during the marriage and husband is not the biological father either as decided by court order OR by a Minnesota Recognition of Parentage form signed by the wife and biological father AND a Minnesota Recognition of Parentage Non-Paternity Statement signed by husband, then complete this section.

23. List anything else you and your spouse agree the Court should decide.
24. You do not need to write anything for this paragraph/question. This statement allows a third party to serve a copy of the entered Judgment and Decree upon respondent by U.S. mail, rather than by personal service. If this statement were not in the Marital Termination Agreement, the Judgment and Decree would have to be served personally by a third party. Petitioner is responsible for serving Respondent with the Decree.

Signing the Marital Termination Agreement

- Do NOT sign and date the *Marital Termination Agreement* until you are in the presence of a Notary Public or Court Administrator/ Deputy. Do not sign the *Marital Termination Agreement* unless the *Summons and Petition* have been served on the Respondent. Check off whether you are or are not represented by an attorney. If you are represented by an attorney, the attorney signs the agreement and fills in his or her name, address, phone number and attorney identification number. If you are not represented by an attorney, sign the *Petitioner's Waiver of Counsel*.
- Once you have signed the *Marital Termination Agreement*, mail or hand-deliver it to your spouse for your spouse to sign. Make sure a document called *Respondent's Waiver of Counsel* is attached to the *Marital Termination Agreement*. Your spouse must sign both the *Marital Termination Agreement* and the *Respondent's Waiver of Counsel*. Your spouse should make a copy of the signed *Marital Termination Agreement* and attached *Waiver* for his/her records, and then return the original signed documents to you.
- If you or your spouse receives public assistance, take the signed agreement (once you receive it back from the Respondent) to the County Attorney's Office for Support and Collections. The county must approve the child support provisions.
- Make a copy of the *Marital Termination Agreement* for your records. Then go to Step 14.

Step 14

Findings of Fact, Conclusions of Law, Judgment and Decree

The *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* is the form that the Judge signs. It is your "Divorce Decree."

If you have a *Marital Termination Agreement*, copy the information word-for-word from your Agreement into the Findings form. The two forms must be consistent or the Judge will not sign the Decree. Your spouse must sign the last page of the Findings where it reads "approved as to form."

If you do not have a *Marital Termination Agreement* and your spouse did not serve you with an Answer, copy the information from your *Petition* into the *Findings* form. The *Petition* and *Findings* must be consistent. If information in the *Petition* is no longer accurate, such as a debt has been paid off, or you have a new address, put the new and correct information in the *Findings*, with a note explaining the difference.

Ask a friend or relative to help you compare the *Petition*, *Marital Termination Agreement*, and the *Findings* for completeness and consistency. **Make three (3) copies of the Findings form and keep one copy for yourself.**

Go to Step 15.

Step 15

How to Obtain Your Divorce Decree

If your spouse served you with an Answer, your case is contested and Step 15 does not apply to you. If your case is not contested you will finalize your divorce by filing additional papers and attending a court hearing. Read the applicable section below.

I. You and Your Spouse Signed a Marital Termination Agreement:

File the following completed papers, in addition to the papers filed at Step 8:

1. **The original signed and notarized Marital Termination Agreement** with attached:
 - a) Respondent's Waiver of Counsel and
 - b) Petitioner's Waiver of Counsel
2. **The original and two copies of the Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree.** (Make certain you have a third copy of the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* for your own records. Bring your copy to Court with you.)
3. **Default Scheduling Request** To fill out this form:
 - Fill in the names of the Petitioner and Respondent
 - Fill in the Case Number
 - Checkmark the line "Hearing Required or Requested."
 - Checkmark the line "with minor children."
 - Print your name, address and phone number
 - Write in the date you completed the parenting program.
 - Write in the date your child(ren) completed the children's program.

Reminder: You may not be able to schedule a Court date until you, your spouse and children have completed any required education programs.

4. **Affidavit of Non-Military Status.** This is a document signed by you, stating that your spouse is not in the military service.

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the blank line after “County of _____,” write in the name of the county where you are signing this form.
- On the first blank line, write in your name.
- Do not sign the *Affidavit of Non-Military Status of Respondent* until you are in the presence of a Notary Public or Court Administrator/Deputy. Make sure to bring picture identification to show to them.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice.

Go now to Step 16 for information on where to file the above listed papers.

II. Your Spouse Did Not Serve you with an Answer and Did Not Sign a Marital Termination Agreement

File the following papers when **at least 50 days** have passed since your spouse was personally served with the Summons and Petition:

Note on Service by Alternate Means: If you were ordered to serve your spouse by publication, you can file the forms 71 days after the first date the Summons was published in the paper. If you were ordered to serve by mail, and not by publication, you can file 51 days after the Summons and Petition were mailed to Respondent.

1. The original and two copies of the Findings of Fact, Conclusions of Law, Judgment and Decree. Keep a third copy for your records.

2. Affidavit of Default

To fill out the Affidavit of Default:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the blank line after “County of _____,” write in the name of the county where you are signing this form.
- On the first blank line, write in your name.
- On the next blank line, write in the date that your divorce papers were served upon your spouse.

Do not sign the *Affidavit of Default* until at least thirty (30) days have passed since your spouse was personally served with the *Summons and Petition*, or 51 days since the first date of publication if the papers were served by publication. Do not sign the *Affidavit of Default* if your spouse served you with an *Answer*.

3. Affidavit of Non-Military Status

To fill out the Affidavit of Non-Military Status:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the blank line after “County of _____,” write in the name of the county where you are signing this form.
- On the first blank line, write in your name.
- Do not sign the *Affidavit of Non-Military Status of Respondent* until you are in the presence of a Notary Public or Court Administrator/Deputy. Make sure to bring picture identification to show to them.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice.

4. **Default Scheduling Request**

To fill out the Scheduling Request:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- Checkmark the line “Hearing Required or Requested.”
- Checkmark the line “with minor children.”
- Fill in your name, address and phone number.
- Fill in the dates that you, your spouse and your children between ages 6-17 attended the education classes.

Go now to Step 16 for Information on where to file the above papers.

III. Your Spouse Appeared by a Pleading Other than an Answer:

If your spouse did not file an Answer or appear in court at a hearing scheduled in your case, but did file a letter or other written response, or sent you a written response, then you must notify your spouse that you intend to ask the court for an order based on your *Petition*. You notify your spouse by using the *Notice of Intent to Proceed to Judgment* form. If you have not already sent this notice, get the notice from the Court Administrator. Wait 13 days after mailing the Notice to fill out and file the forms listed below.

File the following papers when **at least 50 days** have passed since your spouse was personally served with the Summons and *Petition* **and** at least 13 days have passed since your Notice of Intent to Proceed to Judgment was mailed to your spouse:

Note on Alternate Service: If you were ordered to serve your spouse with the Summons and *Petition* by publication, wait 71 days after the first date the Summons was published in the paper before filing the following forms.

1. **The original and two copies of the Findings of Fact, Conclusions of Law, Judgment and Decree.** Keep a third copy for your records and bring it to the hearing.
2. **Affidavit of Default**

To fill out the Affidavit of Default:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.

- On the blank line after “County of _____,” write in the name of the county where you are signing this form.
- On the first blank line, write in your name.
- On the next blank line, write in the date that your divorce papers were served upon your spouse.

Do not sign the *Affidavit of Default* until at least thirty (30) days have passed since your spouse was served with the *Summons and Petition*. Do not sign the *Affidavit of Default* if your spouse served you with an *Answer*.

3. **Affidavit of Non-Military Status**

To fill out the Affidavit of Non-Military Status:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the blank line after “County of _____,” write in the name of the county where you are signing this form.
- On the first blank line, write in your name.
- Do not sign the *Affidavit of Non-Military Status of Respondent* until you are in the presence of a Notary Public or Court Administrator/Deputy. Make sure to bring picture identification to show to them.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice.

4. **Default Scheduling Request**

To fill out the Scheduling Request:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- Checkmark the line “Hearing Required or Requested.”
- Checkmark the line “with minor children.”
- Fill in your name, address and phone number.
- Fill in the dates that you, your spouse and your children between ages 6-17 attended the education programs.

5. **Notice of Intent to Proceed to Judgment, with attached Affidavit of Service of the Notice of Intent**

Go now to Step 16 for Information on where to file the above papers.

Step 16

File the Remaining Papers

When to File

1. **If you have a Marital Termination Agreement:**
You can file as soon as you have all the papers completed and the education requirements are met.
2. **If you served your spouse personally, and your spouse did not respond:**
You can file 30 days after your spouse was served with the Summons and Petition if the education requirements have been met.
3. **If you served your spouse by publication (pursuant to Court Order) and your spouse did not respond:**
You can file 51 days after the first date the summons was published if the education requirements have been met.
4. **If your spouse did not serve you with an Answer but your spouse sent you a letter disagreeing with your Petition or filed such a letter with the Court.**
You can file at the time indicated in # 1-4 above, if it has also been at least thirteen (13) days since you mailed to your spouse the Notice of Intent to Proceed to Judgment.

What to File

See Step 15 for information on what documents must be filed to complete the divorce.

Where to File

File the papers with Court Administration. Going to the Courthouse to file your papers is recommended, because any omissions or problems noted by Court Administration can be explained and possibly corrected immediately. Papers may be filed by mailing them to the Court Administrator.

Step 17

Attend the Default Hearing

As Petitioner, you must go to the hearing. If you have a Marital Termination Agreement, it is recommended, but not required, that Respondent attend the hearing also. If you and your spouse both attend the hearing, questions or concerns the Judge may have about your Marital Termination Agreement can be addressed to both of you. Bring a copy of the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* to Court.

When you get to Court, check in with the Court Administrator or court bailiff outside of the assigned courtroom. Arrive early to give yourself time to find the courtroom and get organized.

Dress nicely. Your clothes should be clean, neat and conservative. You cannot bring food or drink into the courtroom. Hats and chewing gum are not allowed in the courtroom. Do not bring your children to the hearing unless instructed otherwise by the Judge.

Before and during the hearing, it is very important to be polite to everyone in the courtroom. Call the Judge “your honor.” If the Respondent is at the hearing, do not argue with or speak directly to your spouse during the hearing. You are in court to talk to the Judge.

Even though your case is settled or the Respondent never answered, you still need to present your case to the Judge.

If you have a *Marital Termination Agreement*:

1. Tell the Judge your name and that you are the Petitioner.
2. Read the *Findings of Fact* into the record starting with Paragraph 1. When you get to the Conclusions of Law, stop reading.
3. Ask the Judge to give you the original *Marital Termination Agreement* from the court file.
4. Tell the Judge that you signed the *Marital Termination Agreement*, and that your spouse signed it also. Tell the Judge how you know your spouse signed it. (Did you watch your spouse sign it? Or, do you recognize your spouse’s signature and if so, do you recognize the signature on the Agreement as your spouse’s signature?)
5. Tell the Judge that you and your spouse read the *Marital Termination Agreement*, and that the Agreement is a fair and equitable settlement of all issues of your marriage.
6. Ask the Judge if there are any questions.
7. Respond truthfully and politely to any questions the Judge asks you.

If your spouse did not respond:

1. Tell the Judge your name and that you are the Petitioner.
2. Read the *Findings of Fact* into the Record starting with Paragraph 1. When you get to the Conclusions of Law, stop.
3. Ask the Judge if he/she has any questions.
4. Respond truthfully and politely to any questions.

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| <p style="text-align: center;">Step 18 After the Hearing</p> |
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You are not divorced until both the Judge and the Court Administrator/Deputy have signed the divorce decree. This can take several days after the hearing. You will receive from the Court either a copy of the Findings of Fact, Conclusions of Law, Order for Judgment and Judgment or

a notice that the Findings of Fact are ready, once the Judge and Court Administrator/Deputy have signed it. As Petitioner, it is your responsibility to serve Respondent with a copy of the Decree. Serve the Respondent as follows:

1. Obtain a copy of your divorce decree (The Findings of Fact, Conclusions of Law, Order for Judgment, Judgment and Decree.) You may make the copy yourself.
2.
 - a. If you and Respondent signed a *Marital Termination Agreement* and it states in the *Agreement* that service of the Judgment and Decree can be made by mail, do the following: Have someone other than you, who is at least 18 years of age, mail to the Respondent the copy of the Decree you obtained from the Court. The Decree must be sent by first class U.S. mail with sufficient postage, addressed to Respondent's home address. If you do not have an address for Respondent, address the envelope to Respondent's last known address.
 - b. If you and Respondent did not sign a *Marital Termination Agreement*, someone else, at least 18 years of age, must serve the Divorce Decree on Respondent by handing it to Respondent.
3. The server must fill out the Affidavit of Service by Mail form included in this packet, if service was by mail. The server should fill out the Affidavit of Personal Service if the Judgment and Decree was handed to Respondent. The Affidavit must be signed in the presence of a Notary or Court Deputy. File the Affidavit with the court to prove that you served the Respondent with the Decree. Serving the Respondent with the *Decree* helps prove the Respondent knew what was ordered, in case you need to ask the court to enforce the order through a Contempt Motion.

You can file the Affidavit of Service in person or by mail with the Court Administrator.

OTHER STEPS AFTER ENTRY OF THE DECREE

It is the responsibility of the parties to take all necessary steps to put into effect the orders of the Court. For example, if you changed your name you will need to get your driver's license and social security card changed to reflect your new legal name. If you or Respondent were awarded pension or medical benefits, the company or provider will need to see the *Decree* and may have other requirements before making the changes ordered by the Court. If you and/or Respondent own real estate, a certified copy of the *Decree* must be filed in the real estate records where the property is located. The actions you need to take depend on your *Decree* and your situation, and you should consult an attorney with any questions you have.